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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,080	03/25/1999	CHRISTOPHER MICHAEL PURSE	583-1006	1624

7590

01/28/2003

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EXAMINER

DUONG, FRANK

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 01/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/276,080

Applicant(s)

PURSE, CHRISTOPHER MICHAEL

Examiner

Frank Duong

Art Unit

2666

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment!.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-17.

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Seema S. Rao
SEEMA S. RAO 1/27/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
Part of Paper No. 8

DETAILED ACTION

1. This Office Action is a response to the communication date 01/06/2003. Claims 1-17 are pending in the application.

Response to Arguments

2. Applicant's arguments filed 01/06/2003 have been fully considered but they are not persuasive.

In the outstanding response, page 2, second paragraph, Applicant states "*Claim 1 specifies that after multiplexing, there is a step of "transmitting the trib signals over said network span..."*". *This can only mean the trib signals are transmitted over the same span, to reach the same network node ... the same destination*".

In response Examiner respectfully disagrees. A careful review of claim 1 renders no such language of "*This can only mean the trib signals are transmitted over the same span, to reach the same network node*" in the claim. Perhaps applicant refers to certain features that are disclosed in the present application but not recited in the rejected claims in making the contention that the Martin reference fails to show certain feature of applicant's invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Examiner asserts that the Office Action, corresponding to Martin reference, clearly shows the claimed feature. In addition, the Applicant's disclosed invention is a transparent multiplexer/demultiplexer

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for transporting a supercarrier (OC-192) over a network span. Such transparent multiplexer/demultiplexer was invented by and patented to Martin.

In the outstanding response, on page 2, third paragraph continues to page 3, last paragraph, Applicant argues "*Claim 1 also specifies "transparently demultiplexing ... into a plurality of trib signals... whereby the messaging information required to maintain said first protocol is included in said trib signals."* The purpose of this is to enable the supercarrier signal which uses the first protocol, to be constructed after it is transmitted in demultiplexed form in the trib signals ... as being corrected".

In response Examiner respectfully disagrees. A careful review of the disputed limitation Examiner finds no such language as "*The purpose of this is to enable the supercarrier signal which uses the first protocol, to be constructed after it is transmitted in demultiplexed form in the trib signals*". Perhaps applicant refers to certain features that are disclosed in the present application but not recited in the rejected claims in making the contention that the Martin reference fails to show certain feature of applicant's invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Moreover, SONET overhead (*messaging information*) is very well standardized and clearly shown in Martin reference, Figure 2. Furthermore, Examiner asserts that the Office Action, corresponding to Martin reference, clearly shows the claimed feature. There are a few undefined bytes in the SONET overhead. Every-now-and-then there are few inventors trying to use the undefined bytes in the SONET overhead for something else. But not in

this case. There is no evidence neither in the claims nor the specification that the Applicant's intended use of the SONET overhead is diverted from the norm.

Examiner believes an earnest attempt has been made in addressing all of the Applicant's arguments. The rejection from the last Office Action is maintained.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is (703) 308-5428. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (703) 308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Frank Duong
January 16, 2003

S Rao
SPE AU 2666